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April 30, 2009

Via Overnight Courier

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, Maryland 20743

**Re: Policy and Rules Concerning the Interstate, Interexchange Marketplace;
Implementation of Section 254(g) of the Communications Act of 1934, as
amended; CC Docket No. 96-61**

Dear Ms. Dortch:

On behalf of Compass Global Inc. ("Compass Global"), transmitted herewith is the company's 2009 Certification of Compliance with the Federal Communications Commission's geographic rate averaging and rate integration requirements pursuant to 47 C.F.R. § 64.1900.

Please note that, on behalf of Compass Global, our firm is filing the attached Officer Certification under **PROTEST**. For the reasons set forth in this letter, this Certification is being filed solely for the express purposes of avoiding any unnecessary and unwarranted regulatory enforcement proceedings, and does not indicate that Compass Global considers itself a telecommunications service provider, prepaid calling card provider, or similarly regulated service under either the Commission's regulations or applicable law.

Due to the nature of the company's business model and services, Compass Global maintains that it is not a telecommunications service provider. This issue, among other issues centered on Compass Global's regulatory status as it pertains to Universal Service Fund ("USF") contribution obligations, is currently being addressed in an ongoing proceeding before the Commission. *In the Matter of Compass Global, Inc. Apparent Liability for Forfeiture*, File No. EB-06-IH-3060 (rel. Apr. 9, 2008). Compass Global responded to the NAL on June 9, 2008 ("NAL Response").

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In this proceeding, Compass Global demonstrated that it is not providing publically available telecommunications services, and thus is not subject to regulation as a prepaid calling card provider. In the *Prepaid Calling Card Order*,¹ the Commission found that calling card providers were providing a “telecommunications service” because they offer “pure transmission capability ‘for a fee directly to the public.’”² Specifically, the Commission only extended the PIU Certification requirements to prepaid calling card providers providing service directly to end-users.³

Compass’ EPS business can be described as one where the Company owns and operates a session processing platform and offers other companies a package of telecommunications, information, non-telecommunications and management services that enables those companies to provide prepaid calling cards to end-user customers.⁴ Importantly, Compass does not use its PIN Platform to sell calling card services directly to the public for a fee. Instead, Compass sells exclusively to other companies, who in turn sell prepaid calling cards directly to the public or through their own distribution channels. Compass is neither identified as the prepaid calling card provider nor listed as the network services provider on the calling cards sold to the public.

Compass Global maintains that, based upon the technical configuration of its services, Compass Global is not a “provider” of prepaid calling cards, but is merely an enhanced prepaid calling platform wholesaler. As established in its NAL Response, Compass Global merely provides the network elements necessary for other prepaid calling card providers to transmit prepaid calling card calls to End-Users.⁵ By virtue of this position, Compass Global does not sell any prepaid calling cards to the public. Therefore, Compass Global does not “provide” prepaid calling card services to end-users and is hence not subject to those regulations placed on prepaid calling card providers which require the filing of PIU certifications.

In addition, even if the Commission can conclude that Compass Global is providing some form of prepaid calling card services, Compass Global is not providing this service on a

¹ *Regulation of Prepaid Calling Card Services*, Declaratory Ruling and Report and Order, 21 FCC Rcd 7290 (2006).

² *Id.* at ¶ 12 (citing 47 U.S.C. § 153 (43) (defining “telecommunications”)).

³ See *Id.* at ¶¶ 2 & 10 (describing how prepaid calling card customers use services provided by prepaid calling card service providers and describing the types of prepaid calling card providers covered by the Commission’s decision).

⁴ In many respects, Compass’ EPS business is similar to Network IP: Compass “is a telecommunications carrier that owns switches and that offers other companies a package of telecommunications [information, and non-telecommunications & management] services that enables those companies to provide prepaid calling cards to end-user customers.” See *Id.* at 2074. Compass’ package includes: (i) internet access to traffic and billing records; (ii) toll-free and local inbound access to a PIN Accessible Prepaid Platform; (iii) enhanced call routing; and (iv) IP call transport to terminating carriers via a variety of peering arrangements. See *In the Matter of APCC Services, Inc., Data Net Systems, LLC, Davel Communications, Inc., Jaroth, Inc. d/b/a Pacific Telemanagement Services, and Intera Communications Corp. v. Network IP, LLC, and Network Enhanced Telecom, LLP*, Memorandum Opinion and Order, 20 FCC Rcd. 2073 (Feb. 1, 2005) (“*Network IP MO&O*”).

⁵ See *NAL Response* at 46.

common carrier basis. In fact, Compass is very particular in selecting the entities to which it will sell its EWS and EPS. In a discriminate and wholly subjective basis, Compass Global conducts a unique evaluation and makes deliberate findings before choosing which customers it will serve. For instance, the Company will not sell to those carriers that it deems have insufficient quality standards, those that “cut corners” in provisioning, those that use unreliable, inexpensive equipment, and those that do not invest in having redundancy. Moreover, rarely does Compass Global sell its services to its competitors and when it does, it is done at Compass’ discretion and at terms dictated by Compass, as the Company deems appropriate based on the carrier customer at issue.

Therefore the Company cannot be considered a telecommunications service provider under the Federal Telecommunications Act (“FTA”). Under the FTA, the term “telecommunications service” means:

[T]he offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. *Id.* 47 C.F.R. § 153(46) (emphasis added).⁶

Compass Global provides services exclusively on a wholesale basis. It also provides service on a private contractual basis, and does not provide its services to the general public. Because of this, Compass Global’s services completely fail to satisfy the definition of telecommunications services under section 153(46).

For these reasons, Compass Global maintains that it is not a telecommunications service provider or prepaid calling card provider subject to the Commission’s regulation, specifically those regulations promulgated under the *Prepaid Calling Card Order*. Nevertheless, in order to avoid any unnecessary regulatory investigations or enforcement actions regarding compliance with 47 C.F.R. § 64.19000, Compass Global is filing the attached Certification. However, this Certification is being filed under protest and is in no way intended to be determinative of Compass Global’s regulatory status.

Respectfully submitted,

/s/

Christopher A. Canter, Esq.
For Compass Global, Inc.

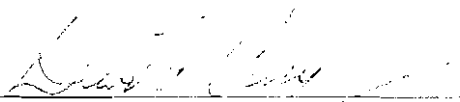
⁶ As one court noted, “[t]he upshot of the various definitions under the [Act] is that the statute applies only to telecommunications services offered on a common carrier basis.” See *Howard v. America Online, Inc.*, 208 F.3d 741, 751-53 (9th Cir. 2000); *Iowa v. FCC.*, 218 F.3d 756, 758 (D.C. 2000) (“[A] carrier that provides a service on a non-common carrier basis is not a ‘telecommunications carrier’ and hence is ineligible [under § 254 of the FCA].”); *Southwestern Bell Telephone Co. v. FCC*, 19 F. 3d 1475, 1480 (D.C. Cir. 1994); *In re Federal-State Joint Board on Univ. Servs. Report and Order*, 12 FCCR 8776, 9177, ¶ 785, 1997 WL 236383 (FCC 1997) (FCC has determined that “telecommunications services” means “only telecommunications provided on a common carrier basis”).

Compass Global Inc.

Section 64.1900 Geographic Rate Averaging
CERTIFICATION OF COMPLIANCE

I, Dean Cary, hereby certify that I am the President of Compass Global Inc. ("Compass Global"), and that I am authorized to execute this certification on behalf of Compass Global and its telecommunications subsidiaries.

Furthermore, I hereby swear under oath that, to the best of my knowledge, information and belief, Compass Global complies with the geographic rate averaging and rate integration obligations pursuant to Section 254 (g) of the Communications Act of 1934, as amended, in providing detariffed interstate, domestic, interexchange services.



Dean Cary, President of Compass Global Inc.